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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Fiftieth session

SUMMARY RECORD OF THE 11th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 10 August 1998, at 3 p.m.

Chairman: Mr. GUISSÉ

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GE.98-13602 (E)

The meeting was called to order at 3.05 p.m.

ORGANIZATION OF WORK:

(c) METHODS OF WORK OF THE SUB-COMMISSION (agenda item 1(c)) (continued) (E/CN.4/Sub.2/1887/3 and 28; HR/NONE/98/144)

1. The CHAIRMAN welcomed the Bureau of the Commission on Human Rights and invited the Chairman of the Commission to address the Sub-Commission.

2. Mr. SELEBI (South Africa), Chairman of the Commission on Human Rights, said he hoped that the Commission and Sub-Commission could work together to fulfil the Sub-Commission's important mandate in line with the guidance offered by the Commission in its resolutions 1997/22 ard 1998/28. In particular, the Sub-Commission should focus on issues where it could make a distinctive contribution to the Commission's work and avoid duplication.

3. The Commission welcomed the restructuring of the Sub-Commission's agenda and its decisions to limit the initiation of new studies and to achieve a compilation of the existing rules of procedure and procedural questions to be resolved. It also noted with interest the Sub-Commission's continued efforts to avoid duplication of the Commission's work regarding specific country situations. However, it expected more efforts at reform in other areas.

4. The Sub-Commission was central to the Commission's current review of its mechanisms and should contribute thereto by making recommendations for the enhancement of its effectiveness and clearly specifying its unique contribution in the form of working groups, comprehensive studies for the benefit of human rights bodies, especially the treaty bodies, and work on country situations that were not under consideration by the Commission.

5. The public meetings should be used to obtain input from Governments and non-governmental organizations (NGOs) and the closed meetings to seek ways of implementing Commission resolution 1998/28 and to engage in constructive dialogue concerning the drafting of resolutions, a process that should not take place in public. The Sub-Commission's draft programme of work should provide for more closed meetings and fewer public meetings.

6. The Sub-Commission should focus strictly on questions relating to human rights in accordance with its mandate and should avoid adopting resolutions containing unsubstantiated views on matters that went beyond its expertise. Before making a recommendation to the Commission, it should determine whether it had carried out a study on the subject or whether the resolution was related to the launching of a study or working paper. The Sub-Commission's credibility was not enhanced when it transmitted casual opinions based on inadequate deliberations and expertise, e.g. on scientific and technological developments.

7. New studies should not be recommended unless they met the needs of the Commission, treaty-monitoring bodies and working groups, and focused on core human rights issues. The Commission had accepted only one of the five study proposals submitted by the Sub-Commission following its previous session. Study selection should be based on the criteria developed at the session and

not on the narrower interests of individual experts. As the Commission was overloaded with standard-setting exercises, the Sub-Commission should be wary of proposing new projects unless the Commission had indicated that new standards were required. It should also be hesitant about launching studies that would require the creation of additional thematic procedures, because the Commission was already barely able to cope with the existing procedures. Sub-Commission studies should, therefore, seek new ways of implementing and interpreting established human rights norms.

8. The Sub-Commission should continue to develop a partnership with NGOs in which each side contributed its expertise. On certain matters, NGOs should make public statements before the Sub-Commission but, on others, they might find a more receptive audience in the context of informal discussions with rapporteurs, authors of working papers, chairpersons of working groups and other members.

9. Commission resolution 1998/28 encouraged the Sub-Commission to adhere strictly to the principles of independence, impartiality and expertise and resolution 1997/22 urged it to improve further its independence and impartiality, particularly in discussions concerning the situation in a specific country. The chairpersons of treaty bodies recommended that the members of treaty bodies should refrain from participating in the consideration of reports, communications or inquiries concerning States of which they were nationals so as to maintain the highest standards of impartiality in both substance and appearance. He was pleased to hear that the Sub-Commission had begun to adopt the same approach, at least in public discussions.

10. The changes suggested by the Commission would help to identify the Sub-Commission's strong points and further streamline its work. He trusted that the Sub-Commission would demonstrate, on its fiftieth anniversary, that it could still make a unique and significant contribution to the protection and promotion of human rights.

11. The CHAIRMAN said that the points made by the Chairman of the Commission would be duly taken into account by the Sub-Commission.

12. Mr. BENGOA said that, although a great deal of attention was being given to reform throughout the United Nations human rights system, the overall trend of the reforms and their ultimate goal were as yet unclear. The underlying principles were sometimes inconsistent. One trend was bureaucratic and sought to curtail activities for budgetary motives. A second trend was related to dissatisfaction at the way in which certain States were treated by human rights bodies. There were proposals that plainly emanated from parties which wanted country situations to be deleted from the agenda in favour of thematic issues. There was also, however, a trend towards more vigorous protection of human rights and he was very much in favour of seeking reform along those lines.

13. The key issue was how to open up the United Nations human rights system to broader participation by all interested parties at the national and international levels, in other words how to make it more representative. At

the highest level of the United Nations system, responsibility for decision-making lay exclusively with States and, in the Security Council, with a small number of States only.

14. At lower levels, however, ways of enhancing participation and representation could be sought. For example, to ensure greater independence of the experts serving on the Sub-Commission, nominations should be invited not only from States but also from NGOs and other similar bodies. Local and national NGOs that were not recognized by the Economic and Social Council should be given the opportunity to participate in the Sub-Commission's working groups. The same applied to treaty-monitoring bodies. In the absence of dialogue with national NGOs, State party reports were submitted in accordance with a bureaucratic procedure and had no major country-level impact on the enjoyment of human rights.

15. Mr. SELEBI (South Africa), Chairman of the Commission, said that the Bureau of the Commission understood that the purpose of the current meeting was to promote a dialogue with Governments and NGOs that would be followed by more focused discussions at the meetings arranged with the two groups. The Bureau had already held a closed meeting with the members of the Sub-Commission. He had been looking forward to a free exchange of views.

16. The review of the Commission's mechanisms was not motivated by financial concerns but was designed to make the mechanisms more effective. No structure or mechanism was under attack. Inefficiency was the sole target.

17. Ms. BU FIGUEROA (Observer for Honduras), speaking also on behalf of Costa Rica, the Dominican Republic, El Salvador, Guatemala, Nicaragua and Panama, stressed the need for punctuality in calling meetings to order and strict compliance with the time limits for statements. The time allotted to NGO statements could be rationalized by encouraging them to make joint statements on issues of common interest.

18. An information meeting for the permanent missions should be held with a view to avoiding the unnecessary dispatch of documentation. Commission on Human Rights documents, including reports by special rapporteurs and independent experts, should be distributed in all languages in good time.

19. Commission agenda items, particularly those relating to thematic issues, should be reviewed every two years and themes relating to economic, social and cultural rights should be given greater attention.

20. Consensus resolutions should be promoted through more transparent submission and negotiation procedures, including open consultations. Voting should be speeded up, for instance by installing an electronic voting system.

21. The procedure governed by Economic and Social Council resolution 1503 (XLVIII) should be revised so that only really credible communications were transmitted to the Commission for consideration.

22. Special rapporteurs and independent experts should be present during the discussion of the relevant issues. Each State should supply a list of eligible candidates for such offices so as to ensure a more equitable and broader geographic distribution of appointments.

23. Mr. WU Jianmin (Observer for China) said that the purpose of the proposed reform of the Commission on Human Rights should be clearly specified as the enhancement of its efficiency and further promotion and protection of human rights worldwide and the existing shortcomings of the Commission must be redressed.

24. The tendency for the Commission to overemphasize civil and political rights at the expense of economic, social and political rights and the right to development should be gradually reversed. Since the end of the cold war, the Commission had adopted 614 resolutions, of which only 40 - 6.5 per cent - dealt with economic, social and cultural rights. Of the 35 working groups and special rapporteurs of the Commission, only 4 related to economic, social and cultural rights. Such statistics indicated an intolerable imbalance between the two categories of rights.

25. Secondly, reforms should aim at reducing confrontation and promoting cooperation. Since 1992 the Commission had adopted 86 resolutions on country situations, all of them directed at developing countries. The 17 special rapporteurs also dealt exclusively with developing countries. No country's human rights record was perfect, so it was unfair to single out the developing countries. The right approach would be to highlight the common ground among countries, to engage in dialogue on the basis of equality and to promote cooperation.

26. He noted that the number of staff members dealing with civil and political rights far exceeded those dealing with economic, social and cultural rights and the right to development. Similarly, there was a disproportion in the geographical distribution of human rights personnel. He had no quarrel with those from the developed countries, most of whom were hard-working. It was alarming, however, that so few came from developing countries. It could not be normal that, although China accounted for 23 per cent of the world population, there were hardly any Chinese working in the United Nations human rights mechanisms. Statistics on the number and nationalities of higher-ranking staff should be published, together with the steps that the United Nations planned to take to rectify the disproportion, in the interests of transparency.

27. Mr. SELEBI (South Africa), Chairman of the Commission on Human Rights, said that he was eager to generate a discussion. There was indeed an imbalance between the various categories of rights and he asked the observer for China what measures he suggested to correct it.

28. Mr. WU Jianmin (Observer for China) said that it was a many-sided, deep-rooted problem that could not be solved overnight. Among the more obvious elements were the timing and agenda of meetings, the resources available, the composition of the staff and the whole institutional structure.

The journey would be a long one, but the first step should be taken. There were 3.3 billion people living in poverty. The Commission should not ignore that fact and should attach greater importance to the problems that those people faced.

29. Mr. H.K. SINGH (Observer for India) said that his Government attached great importance to the Sub-Commission's work, which could guide the Commission in seeking constructive solutions to various human rights issues. At the same time, he was glad to note that steps had been taken to reform its agenda and methods of work, with particular success since 1996.

30. The Sub-Commission was more than just a mechanism of the Commission, a term more appropriately applied to the thematic rapporteurs and special procedures established by the Commission. It was therefore arguable that the Sub-Commission's work should not be included at all within the framework of the Commission's review of mechanisms. There was, indeed, a case for the Commission to consider reforming itself.

31. The Commission should perhaps. await the outcome of the Sub-Commission's discussions at its current session before giving some guidance at its fifty-fifth session, taking into account the steps taken by the Sub-Commission to implement Commission resolution 1998/28.

32. The Sub-Commission should further refine its methods of work in order to enhance its relevance, while avoiding duplication with the work of the Commission. Drastic measures, such as eliminating the Sub-Commission altogether or severely curtailing its functions and role, would not serve the cause of human rights. The Sub-Commission should be strengthened, not undermined.

33. Mr. Bengoa had outlined several valuable ideas - which would go some way towards redressing the imbalance referred to by the Observer for China - on effective solutions to current problems and on measures to address new phenomena. In the context of the holistic vision of the Universal Declaration of Human Rights, the Sub-Commission should devote greater attention to economic, social and cultural rights and the right to development. At the same time, it should continue to focus on the rights of vulnerable groups, including indigenous populations.

34. The main strength of the Sub-Commission lay in its think-tank role, particularly on thematic issues. It should therefore review its practice of adopting country resolutions, which was essentially a political act best performed by intergovernmental bodies, and focus rather on promoting dialogue and cooperation, and identifying constructive solutions to the world's human rights problems.

35. Mr. Man-Soon CHANG (Observer for the Republic of Korea), speaking on behalf of the Asian Group, said that the Group had submitted a joint paper in response to the request for recommendations on the review of mechanisms. The views in the paper had been formulated in the course of a series of intensive consultations among all its members and should be given due weight.

36. Although the mechanisms of the Commission, such as the Sub-Commission and the special procedures, had contributed to the protection of human rights over the decades, they had proliferated in an unsystematic manner. The review gave an opportunity to enhance the efficiency of the human rights system as a whole. The scope of the review was vague, but the Asian Group would prefer to begin by focusing on specific issues, as part of the overall rationalization process of the Commission's work, and more particularly on the special procedures. There should then follow a comprehensive review of the work of the Commission itself and of the Third Committee of the General Assembly. A broader review risked being superficial.

37. Among the priorities identified by the Asian Group were the enhancement of constructive dialogue and cooperation between the mechanisms of the Commission and States, rather than the confrontational approach that had sometimes been adopted, and a real reduction in politicization and selectivity. Due regard should also be paid to the social and cultural particularities of each society. The universality and interdependence of human rights should be recognized. Lastly, the Group attached importance to a balanced allocation of resources for economic, social and cultural rights, the right to development and technical cooperation programmes.

38. Mr. SUNGAR (Observer for Turkey) said that the United Nations human rights mechanisms had become victims both of their own sophistication and of manipulation by Member States. Their workings would be improved by greater transparency: given that they were based on dialogue and cooperation among States, the revision, too, should be based on the cooperation of all States on a continuous basis, in a framework of open-ended informal consultations.

39. The necessary conditions should also be created to achieve international cooperation on thematic matters, particularly with regard to international terrorism, contemporary forms of racism and xenophobia and the rights of migrant workers, work on which had been bedevilled by the North-South confrontation.

40. Debates and decisions on the human rights situations in a number of countries had not yielded any positive results and, indeed, that further deepened the prevailing tension between developing countries and the developed world, since the former were constantly criticized whereas the latter was hardly criticized at all. Moreover, attacks on a particular culture or religion seemed to be increasing, causing the developing countries to lose their faith in the credibility of the mechanisms. The agenda items on country situations should therefore be reconsidered. A more constructive approach would be to sustain a dialogue with countries in which gross human rights violations were observed.

41. The procedure governed by Council resolution 1503 (XLVIII) should also be addressed. Countries to which the procedure was applied normally viewed complaints as unfounded and politically motivated. It was almost impossible to verify the facts or even, sometimes, to identify the person or organization bringing the complaint. New rules of conduct should be introduced for special rapporteurs, encouraging them to refrain from adopting political approaches and to respect the domestic and constitutional order of the countries with which they were dealing.

42. Rules governing the participation of NGOs in the United Nations human rights system should also be thoroughly reviewed. While appreciating the contribution made by NGOs, his Government believed that the current system, whereby a member of an accredited NGO could participate fully in public meetings or engage in lobbying, was open to abuse: there was no safeguard, for example, against extremist elements who, operating as members of NGOs, had no respect for the principles of the Charter of the United Nations.

43. Lastly, the economic and social dimensions of the human rights system should be strengthened and greater effort should be put into reaching a consensus on the right to development, with a view to incorporating the concept into the human rights system.

44. Mr. STROHAL (Observer for Austria), speaking on behalf of the European Union, said that the Union had long had the objective of enhancing the effectiveness of the Commission's mechanisms. To that end, it had submitted a number of ideas in writing to the Secretariat. The broadest possible input should be ensured, from NGOs as well as Governments.

45. For the system to be effective, the holders of mandates of the special procedures should be independent experts of high moral standing. States had the obligation to respect their independence and impartiality. Special procedures also needed sufficient support and resources, from the regular budget of the United Nations, to be effective. Coordination was crucial; joint missions and the exchange of information should therefore be further developed. Another key issue was the systematic, effective and prompt follow-up to recommendations from the various mechanisms.

46. Many of the mechanisms had been initiated within the Sub-Commission. Important though its role had been over the years, it had an urgent need for adaptation to current circumstances. In particular, it should focus on its core functions and not duplicate the work of the Commission. The Union looked forward to constructive discussions at the various stages of the review process.

47. Ms. GUILLET (International Federation of Human Rights Leagues) said it was regrettable that the important meeting between the Sub-Commission and the Bureau of the Commission had been a closed one. She hoped that, in the interests of transparency, the gist of it would be made generally accessible.

48. The work of the Sub-Commission was extremely important, even if its independence and effectiveness were increasingly being questioned by both Governments and NGOs. It had been responsible for some of the major advances in increasing protection for victims of violations, not least the establishment of the special procedures. Every year it helped to focus public attention on various countries. It had adopted various thematic procedures. It had reacted quickly to difficult situations by issuing prompt declarations. It had also provided a framework for dialogue between the parties to conflicts, as in the case of Guatemala. Reports by its special rapporteurs had become authoritative texts in the human rights field.

49. Such traditions should be maintained. They were, however, at risk from certain factors, such as the fact that some experts spoke out publicly in

defence of their own countries or on the decision - on the pretext of rationalizing work and encouraging dialogue - not to consider the human rights situation in some countries. Her organization suggested that the members of the Sub-Commission should not take part in debates on their own countries. The experts would thus have an objective guarantee of independence from their Governments and such an approach would ensure equality among States, only 26 of which, out of over 180, had a national who was a member of the Sub-Commission.

50. It was essential that the Sub-Commission should continue to play its role of alerting the Commission to situations of flagrant, massive and systematic violations of human rights. In that regard, the decision not to duplicate the Commission's work by adopting resolutions on countries under open consideration by the Commission would give the Sub-Commission an opportunity to concentrate on equally serious situations that had not yet been tackled by the Commission.

51. The CHAIRMAN invited the Chairman of the Commission to respond to the points that had been made.

52. Mr. SELEBI (South Africa), Chairman of the Commission on Human Rights, said that the meeting should proceed in accordance with the policy adopted by the Chairman in terms of the way that speakers were to be given the floor. At the end of the meeting, he would express his views on how he would like the following day's meetings to be structured.

53. Mr. KUEHL (Observer for the United States of America) said that the manner in which the weight given to different types of rights had been calculated had exaggerated the perceived imbalance. Such quotas were of little value when some resolutions (such as those on human rights education) dealt with both categories of rights, whereas others (concerning procedural matters, for example) involved neither.

54. In view of the limited capacity of the Office of the Human Rights Commissioner to deal effectively with certain issues, such as toxic waste or extreme poverty, the human rights approach might also be usefully adapted to other parts of the United Nations system.

55. His Government had recently contributed US$ 900,000 for technical cooperation to the Office of the High Commissioner on Human Rights and had pledged another larger sum in the hope that a good proportion of those funds would be used to respond to developing countries' requests for assistance in promoting the rule of law. The reason that developing countries were a prime target of the special procedures was that the rule of law in those countries was less well developed. It was not a question of confrontation, but of cooperation and technical assistance.

56. Although many of the proposals in the informal working paper (HR/NONE/98/144) were consistent with the mandate of the United Nations, namely, the protection and promotion of the rights of individuals, there were other proposals which appeared to be designed to protect countries from "interference" by human rights mechanisms. Confrontation could not be avoided

since human rights were essentially a political issue. It was to be hoped, therefore, that the Bureau of the Commission would keep the human rights of individuals in the forefront during its review.

57. Mr. NDIAYE (Observer for Senegal) said he agreed that any proposals for change must focus on the more effective promotion of the rights of individuals. The main purpose should be prevention rather than condemnation, for such was the spirit of the procedure governed by Council resolution 1503 (XLVIII). The Sub-Commission's major contribution involved the preparation of thematic studies and the consideration of ways of enhancing the mechanisms. Far from refraining from studying country situations, the Sub-Commission should strengthen its role in that regard. Its deliberations under agenda item 2 should focus on serious lacunae in human rights.

58. States always had certain interests to protect, whatever their avowed willingness to further human rights. Politicization was thus more understandable in an intergovernmental body, such as the Commission on Human Rights, than in a body of independent experts. The credibility of the Sub-Commission had been considerably weakened in recent years by excessive politicization of the debates on country situations and the political motivations of certain draft resolutions had raised doubt as to the independence and integrity of the experts, who were subject to pressures from both countries and NGOs.

59. The independence of the Sub-Commission must be strengthened still further. Although voting had been made secret, the real independence of experts remained in question, since they were still obliged to pronounce themselves publicly before the decisions were taken. All consideration of country situations should thus be held in private.

60. One idea for making the work of the Commission more effective was to transfer the onus of the procedure governed by Council resolution 1503 (XLVIII) to the Sub-Commission, as the consultative body of the Commission. Situations could then be examined by the Commission only in cases where countries refused to cooperate, or where the situation had become particularly serious.

61. There must be a focus at the institutional level on the indivisibility of human rights. Any proposal for change must, however, take into account the fragility of the architecture of human rights mechanisms. If one aspect were touched, others would also require reappraisal.

62. Mr. van RIJSSEN (Observer for the Netherlands) said that if there was to be a successful and substantive review of the mechanisms of the Commission, the scope of the debate would need to be narrowed. A number of issues were beyond the remit of the Sub-Commission and could be more appropriately addressed by other organs such as the Economic and Social Council or the General Assembly. Cooperation between the various bodies was vital if the imbalance between the different rights was to be corrected.

63. One reason for the perceived imbalance might be that civil and political rights were discussed only within the mechanisms of the Commission, whereas aspects of economic, social and cultural rights were addressed elsewhere in

the system; the World Health Organization (WHO) was dealing with the right to health, for example, while the right to negotiate contracts was covered by the International Labour Organization. Both those programmes had the financial and moral support of the Netherlands. A comparison of the funding allocated throughout the system to the different rights might provide a somewhat different picture.

64. Ms. PETTER (Observer for Switzerland) said that the members of the Sub-Commission should be barred from discussing the situation in their own countries; the initiative for inviting special rapporteurs should rest with the countries concerned and countries not extending invitations should provide explanations; the reports of the special rapporteurs should be made available two weeks before the beginning of the session in time for discussion by the Sub-Commission; and no United Nations body should be allowed to make changes to the reports of the special procedures, which were the responsibility of the special rapporteurs themselves.

65. Mr. ZAHRAN (Observer for Egypt) said that the reform process must not be rushed. A major priority was to reform the mechanisms, a technical matter rather than a legal one, which should not be politicized. Visits by special rapporteurs should not be binding on States, nor should they focus on uncovering negative aspects; rather, special rapporteurs should act in favour of the country concerned and should seek out positive aspects in a spirit of encouragement and dialogue. Such visits should not duplicate the reports submitted to United Nations bodies.

66. The promotion of human rights was a fundamental task of the United Nations and as such should be financed from the regular budget. The High Commissioner for Human Rights should also implement a practical plan to ensure a balance between "individual" and "collective" rights. The right to development must also be emphasized.

67. Practical methods should be stressed in the fight against poverty and famine. There must also be action to accelerate the elimination of weapons of mass destruction, particularly nuclear weapons. NGOs must not usurp the role of Governments, although their participation should be encouraged, with a view to achieving complementarity of roles.

68. Mr. AKRAM (Observer for Pakistan) said that history would note the important contribution made by the Sub-Commission to standard-setting. The experts had always made a valuable contribution by preparing thematic studies; priority issues for further attention must, however, be identified. The suggestion that attention should be focused on the right to development was too simplistic. Important issues affecting equity, social justice and the collective and individual treatment of human beings throughout the world also deserved expert attention, including globalization and the marginalization of entire countries and continents.

69. No hard and fast rule could be drawn regarding country situations; the call to avoid duplication of the Commission's work was, once again, too simplistic. The Sub-Commission should perhaps focus on urgent or emergency

situations. There must certainly be a fair and systematic approach to the selection of those issues which would benefit from expert study and it did seem strange that there should be such a lopsided emphasis on developing countries.

70. The procedure governed by Council resolution 1503 (XLVIII) might be simplified if the Working Group on Communications were to meet twice a year, the first session to weed out those communications that did not reveal a consistent pattern of human rights violations and the second to focus on the more serious issues that required a dialogue.

71. The issue of government sponsorship of certain NGOs must be addressed honestly and urgently, so as to prevent the cancer from spreading and undermining the contributions of dedicated actors in the human rights field.

72. The value of the contribution of the expert members of the Sub-Commission was undeniable. In order to take account, however, of the increased membership of the United Nations, and to widen the sense of country participation in the Sub-Commission, the alternates might, perhaps, be appointed from the same region but not necessarily from the same country. Such a membership would also widen the scope of contributions.

73. Mr. HOYNCK (Observer for Germany) said that the first exchange of views with the Sub-Commission had provided a good start to the process of consultation, whose results would be essential to the future role of the Commission and its mechanism and to the work of the High Commissioner for Human Rights. It was nevertheless important to bear in mind what could be achieved and not to become obsessed with the consultation process: consultations should concentrate on areas where progress seemed possible within a realistic time-frame.

74. The scope and number of proposals contained in the informal working paper (HR/NONE/98/144) prepared by the Secretariat reflected the challenging task ahead. There were two matters he wished to single out: the balance between the various elements of human rights and the Sub-Commission itself. Germany had always highlighted the importance of economic, social and cultural rights, but it was important to underline that all human rights were important, and none should be promoted at the expense of others.

75. His delegation had been the main sponsor of the resolution on the work of the Sub-Commission for many years, and was therefore particularly interested in that section of the informal working paper. The objective was clearly reflected in paragraph 116 of that paper, namely, that the Sub-Commission should focus on its original role as a "think-tank" for the Commission.

76. It was also important that practical, rather than theoretical, papers be prepared by experts who understood the environment in which human rights had to be realized. The more practical the papers were, the easier it would be to feed them into the Commission and to help in the promotion of human rights.

77. The main task of the Sub-Commission would be selecting topics for studies. It was important to regard the consultation process as being aimed at clearing the air, so that agreement could be reached on a framework for the further work of the Sub-Commission.

78. Ms. RISHMAWI (Chairperson of the fifth meeting of special rapporteurs/representatives, experts and chairpersons of working groups of the special procedures and the advisory services programme of the Commission on Human Rights), reporting on the meeting, the results of which were contained in a note by the United Nations High Commissioner for Human Rights (E/CN.4/1999/3 and Add.1), said that a useful exchange of views had been held between the Bureau of the Commission and the representatives of the regional groups on the one hand and the special rapporteurs and experts on the other. There had also been a useful discussion with representatives of NGOs and with the internal task force appointed by the High Commissioner for Human Rights.

79. It had been agreed that those discussions should be continued and repeated at future annual meetings. A number of clusters of issues had been discussed: they included the need to improve cooperation with Member States; the follow-up to the recommendations of special rapporteurs; and improved support for special rapporteurs from the Secretariat at all levels.

80. The meeting had expressed concern regarding a serious lack of cooperation on the part of Member States, particularly with regard to approving requests for country visits. Such visits, however, were only the beginning of a process. There should be a follow-up in the resolutions of the Commission, and there was clearly a need for follow-up actions to implement the conclusions and recommendations of the special rapporteurs following their visits.

81. There was also a role for the High Commissioner in the follow-up process in her bilateral and public actions. One useful proposal was that she should publish an annual report consisting of the conclusions and recommendations of the country and thematic rapporteurs. The special rapporteurs had also agreed that the conclusions and recommendations contained in their reports should be transmitted to other relevant United Nations agencies or bodies, and to the regional human rights organizations. It was also emphasized that there should be a better flow of information between the rapporteurs and the treaty bodies. Timely placement of those reports on the Website of the Office of the High Commissioner would facilitate that task.

82. As for Secretariat support, it was felt that the efficiency of the special rapporteurs depended on the efficiency of the staff and, in that respect, concern was expressed regarding the timely submission of reports, particularly the fact that most reports were published only on the day that they were presented to the Commission. Such action not only hampered the work of the special rapporteurs but also was unfair to the Government concerned and to all who had participated in the Commission's work. The financial resources allocated to the mandates of the special rapporteurs were insufficient.

83. The meeting considered that it was essential for the credibility of the human rights mechanisms of the United Nations that the integrity and independence of the institution of special rapporteurs and their immunity be

fully respected. In that regard, concern had been expressed about the attack in Malaysia on the immunity of the Special Rapporteur on the independence of judges and lawyers, a matter which had been referred to the International Court of Justice for an advisory opinion. Concern had also been expressed about the case of the Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo: it was felt that that case highlighted the growing trend towards undermining the mandates of the experts of the special procedures system. Concern had also been expressed regarding the case of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance.

84. In that context, an examination was currently being made of the draft United Nations Code of Conduct for Officials other than Secretariat Officials and for Experts on Mission (A/52/488/Add.1). Preliminary consideration indicated that the draft Code contained provisions that could undermine the independence and proper functioning of the persons concerned, and the special rapporteurs believed that they should have been consulted during the drafting process. A letter had been sent to the United Nations Office of Legal Affairs, and a reply received.

85. The special rapporteurs agreed that there was a need for better guidelines for their new colleagues and had been working for more than two years on a manual, which was in the final stages of preparation with comments being collected from the various special rapporteurs. The manual would be ready for formal adoption at the Sixth Meeting and, in the meantime, it had been agreed that the current version could be distributed to new special rapporteurs in its draft form.

86. It was felt that the free flow of information was the key to cooperation with the High Commissioner, and several of her colleagues had expressed the need to be informed and consulted in advance of visits by the High Commissioner, and to be briefed upon her return. There was also a view that the High Commissioner should visit a country that was not cooperating with a country specific rapporteur only after consultations with that special rapporteur.

87. It was also noted that there were areas of overlap between the mandates of special rapporteurs and the human rights mandates assigned to the Secretary-General of the United Nations, and it was thought that there was a need for more systematic discussion between the human rights mechanisms and the relevant desks of the Departments of Political Affairs and of Peacekeeping Operations in New York. A formal understanding regarding cooperation in the field of human rights between the mechanisms and United Nations field operations, including peacekeeping operations, was also desirable.

88. Ms. WISEBERG (Human Rights Internet) said that new information technology could be used to strengthen human rights mechanisms and treaty bodies. Everyone had benefited enormously from the fact that the Office of the High Commissioner for Human Rights had put human rights documentation on-line, but a great deal more needed to be done. The Office must have adequate resources so that it could put documents on the web as soon as they

appeared, for which purpose it needed professional assistance. Secondly, the Website had to become interactive, with submissions from Governments and NGOs going on-line and permitting a broader dissemination of views and a wider debate.

89. In view of the prohibitive cost of travelling to Geneva or New York, many NGOs would find that effective use of the Internet would facilitate their participation in the work of the Commission on Human Rights. A working group of experts might be established to look into that possibility.

90. Thirdly, given the extent to which the electronic sharing of communications could cut costs, it was counterproductive for the United Nations to be charging US$ 1,500 per annum for access to the Optical Disc System: at least for NGOs in consultative status, access should be free of charge.

91. Fourthly, with the projected move to the Palais Wilson, the Office should establish a human rights documentation centre fully based on modern information technology and designed in such a way that it became a place where special rapporteurs and members of treaty bodies could do their research.

92. Fifthly, much more needed to be done to develop the Intra-Net information system used by staff members of the Office in Geneva, New York and the field. It could become a major tool for information sharing and of critical importance as a communications line between field offices and headquarters.

93. Lastly, all special rapporteurs and members of treaty bodies should be electronically connected to the Office and, if they did not have computers and modems, they must be given them and provided with the necessary training to use them.

94. Ms. BYAN (Carter Center and Jacob Blaustein Institute for the Advancement of Human Rights) said that the two institutions she was representing had held a meeting in May 1998 at the Carter Center in Atlanta, Georgia, involving the High Commissioner for Human Rights, several United Nations country and thematic special rapporteurs and representatives, human rights experts from NGOs and representatives of academic and research institutions, to discuss how the work of the United Nations human rights mechanisms could be made more effective. The subject had been tackled by looking at country situations and case studies.

95. One case study - the very important and timely report in 1993 by the Special Rapporteur, Mr. Ndiaye of Senegal, on the situation in Rwanda - had pointed to a pattern of genocidal killings which had begun to take place, and had warned the international community that if no action were taken there would be serious consequences and the killings would increase. Mr. Ndiaye had offered some modest proposals and recommendations which, if action had been taken, might have prevented one of the greatest human tragedies of the century.

96. There had been a number of attempts in recent months to assign blame for the failure of the international community, but Mr. Ndiaye's report was an undoubted success. The problem was, however, that it had not been widely circulated, and many senior United Nations officials had not even known until recently that it existed.

97. In balancing the different types of monitoring, it would be very dangerous if the type of fact-finding demonstrated in Mr. Ndiaye's report were put in jeopardy. It must be continued and strengthened. It should certainly not be weakened by any attempts to inject quotas for different types of rights.

98. Turning to the question of resources, she said that Mr. Ndiaye's mission had cost approximately US$ 20,000, a very small sum compared to other United Nations missions of similar gravity. Mr. Ndiaye had had no research assistants and had taken time away from his private law practice to do his job. The funding of the work of special rapporteurs should, ideally, come from the regular budget of the United Nations, but until that funding could be reliably assured, alternative ways of securing funds should be sought through philanthropic and other channels.

99. Mr. SELEBI (South Africa), Chairman of the Commission on Human Rights, said he hoped that, during the consultations which the Bureau of the Commission would be holding with Member States the following day and NGOs the day after that, the discussions, guided by the informal working paper (HR/NONE/98/144) prepared by the Secretariat, would begin with proposals of a general nature and then deal with special procedures, working groups, the Sub-Commission, the procedure governed by Council resolution 1503 (XLVIII), NGOs and documentation. He hoped that the discussions would be genuinely interactive and used as an opportunity to exchange ideas rather than to state positions. He also hoped that the participants would speak freely.

The meeting rose at 5.55 p.m.